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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,962	12/03/2003	David Ernest Hartley	PA-5356-RFB	4369
9896	7590	12/14/2007		
COOK GROUP PATENT OFFICE P.O. BOX 2269 BLOOMINGTON, IN 47402			EXAMINER DOWE, KATHERINE MARIE	
			ART UNIT 3734	PAPER NUMBER
			MAIL DATE 12/14/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 10/726,962	<b>Applicant(s)</b> HARTLEY ET AL.	
	<b>Examiner</b> Katherine M. Dowe	<b>Art Unit</b> 3734	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 28 November 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

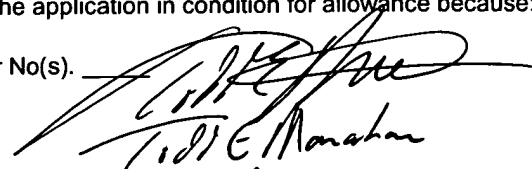
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: \_\_\_\_\_.
- Claim(s) objected to: \_\_\_\_\_.
- Claim(s) rejected: \_\_\_\_\_.
- Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
Please see attached Detailed Action.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_
13. ☐ Other: \_\_\_\_\_.

  
 T. D. E. Marahan  
 SPE 3731

### **DETAILED ACTION**

1. The following is a complete response to the after final amendment filed 11/28/2007.
2. Claims 19, 21-23, and 25-27 are currently pending.

### ***Response to Arguments***

3. Applicant's arguments filed 11/28/2007 have been fully considered but they are not persuasive.
4. Applicant argues Chobotov et al. could not be applied to a situation where it is necessary that one end of the prosthesis be moved independently of the other. The Examiner respectfully traverses the applicant's remarks. Ivancev et al. teach the general method of everting a prosthesis to more efficiently deliver the prosthesis to the aorta. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Chobotov et al. such that the prosthesis (11) was everted for more efficient delivery. Accordingly, the device of Chobotov et al. would be applied to a situation in which the prosthesis ends moved independently of each other.
5. Applicant additionally argues Chobotov et al. do not teach a three point mounting system to support a stent graft on a delivery device. The Examiner respectfully traverses the applicant's remarks. Chobotov et al. teach attaching the ends of the prosthesis to the proximal and distal ends of the deployment catheter, wherein the deployment catheter is engaged to the nose cone at the distal end, thus the distal end

of the prosthesis may be interpreted as being attached to the nose cone dilator.

Furthermore, the teaching of Ivancev et al. is used to show the method of everting a prosthesis to more efficiently deliver the prosthesis to the aorta. When the prosthesis of Chobotov et al. is everted in view of Ivancev et al. it would have been obvious to mount the modified everted prosthesis on the deployment device in an analogous manner to way the original prosthesis of Chobotov is mounted on the deployment device. Thus, the proximal end of the prosthesis becomes the central folded portion of the prosthesis and the distal end of the prosthesis becomes both the proximal and distal ends of the prosthesis. Thus, when mounted in the same manner as the original prosthesis in Chobotov et al., the modified prosthesis has the central portion mounted to the delivery catheter proximal end and the proximal and distal prosthesis ends mounted to the delivery catheter distal end. Furthermore, when the prosthesis ends are mounted to the delivery catheter distal end, they may also be interpreted as mounted to the nose cone dilator, since the nose cone dilator engages the delivery catheter distal end. Finally, the manipulator that the central portion is mounted to on the proximal end may be interpreted as the release wire 23.

6. Finally, the applicant argues Ivancev et al. teach an entirely manual method of introducing a prosthesis into the descending aorta and there is no teaching or suggestion that a mechanical device could be used to assist the surgeon in this process. The Examiner respectfully traverses the applicant's remarks. It is well known in the art to use mechanical devices to assist surgeons in delivering prostheses in surgery to ensure more a more safe, precise, and efficient process. Specifically,

Chobotov et al. disclose a mechanical delivery device for delivering such a prosthesis.

Thus, the mechanical device of Chobotov et al. is modified in view of Ivancev et al. who teach a general method for delivering such a prosthesis comprising everting the prosthesis prior to delivery.

7. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a three point mounting system where one of the mountings can be moved longitudinally independent of the others) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katherine M. Dowe whose telephone number is (571) 272-3201. The examiner can normally be reached on M-F 8:30am - 5pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Hayes can be reached on (571) 272-4959. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Katherine Dowe  
December 10, 2007



Todd E. Manchon  
SPE 3731